

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 55 (Sub-No. 718X)

CSX TRANSPORTATION, INC.—ABANDONMENT
EXEMPTION—IN ALACHUA COUNTY, FLA.

Decided: March 6, 2015

CSX Transportation, Inc. (CSXT), and Florida Northern Railroad Company, Inc. (FNOR), jointly filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service for: (1) CSXT to abandon approximately 11.62 miles of rail line on CSXT's Southern Region, Jacksonville Division, West Coast Subdivision, between milepost AR 716.88, at High Springs, and milepost AR 726.69, at Newberry, and milepost ARB 717.11, at High Springs, and milepost ARB 718.92, at High Springs, in Alachua County, Fla. (the Line); and (2) FNOR to discontinue service over approximately 9.81 miles of rail line between milepost AR 716.88, at High Springs, and milepost AR 726.69, at Newberry (the FNOR Line).¹ Notice of the exemption was served and published in the Federal Register on December 10, 2013 (78 Fed. Reg. 74,227). The notice of exemption was scheduled to become effective on January 9, 2014, but on December 20, 2013, Seaside Holdings, Inc., filed a formal notice of intent to file an offer of final assistance (OFA), under 49 U.S.C. § 10904 and 49 C.F.R. § 1152.27(c)(2), to purchase the Line. No OFA was filed, and the OFA process was terminated. By decision served April 17, 2014, the Board determined that the effective date of the exemption would be April 28, 2014, if the OFA process were terminated. In a decision served on April 25, 2014, the Board reopened the proceeding and imposed three environmental conditions.

On June 11, 2014, Georgetown and High Line Railway Company, LLC (GHL), filed a request for the issuance of a notice of interim trail use (NITU), under the National Trails System Act (Trails Act), 16 U.S.C. § 1247(d), and 49 C.F.R. § 1152.29, to provide time to negotiate with CSXT for acquisition of the right-of-way for use as a recreational trail and for rail banking. By decision and NITU served on July 15, 2014, this proceeding was reopened and a 180-day period was authorized for GHL to negotiate with CSXT for interim trail use. The NITU negotiating period expired on January 12, 2015.

¹ The FNOR Line is a portion of the Line. CSXT leased the FNOR Line to FNOR in 2005 as part of the transaction in Florida Northern Railroad—Lease Exemption—Line of CSX Transportation, Inc., FD 34689 (STB served June 15, 2005). FNOR also operated the CSXT trackage between milepost ARB 717.11 and milepost ARB 718.92 as exempt industry track.

On January 8, 2015, Alachua County (the County), a political subdivision of the State of Florida, filed a request under the Trails Act and 49 C.F.R. § 1152.29 to have the NITU transferred to the County so that further negotiations with CSXT can continue.² Pursuant to 49 C.F.R. § 1152.29, the County has submitted a statement of its willingness to assume financial responsibility for the right-of-way, and has acknowledged that the use of the right-of-way for trail purposes is subject to possible future reconstruction and reactivation of the right-of-way for rail service. In a letter filed on January 12, 2015, CSXT indicates its willingness to negotiate with the County for interim trail use.

Because the County's request complies with the requirements of 49 C.F.R. § 1152.29 and CSXT is willing to negotiate for trail use, a NITU will be issued. The parties may negotiate an agreement for the right-of-way during the 180-day period prescribed below. If an interim trail use agreement is reached (and thus, interim trail use is established), the parties shall jointly notify the Board within 10 days that an agreement has been reached. 49 C.F.R. § 1152.29(d)(2) and (h). If no agreement is reached within 180 days, CSXT may fully abandon the Line. 49 C.F.R. § 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to possible future reconstruction and reactivation of the right-of-way for rail service.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on December 10, 2013, exempting the abandonment of, and discontinuance of service over, the above described line is modified to the extent necessary to implement interim trail use/rail banking as set forth below to permit the County to negotiate with CSXT for trail use for the rail line, for a period of 180 days from the service date of this decision and notice, until September 8, 2015.
3. If an interim trail use/rail banking agreement is reached, it must require the trail sponsor to assume, for the term of the agreement, full responsibility for: (i) managing the right-of-way; (ii) any legal liability arising out of the transfer or use of the right-of-way (unless the trail sponsor is immune from liability, in which case it need only indemnify the railroad against any potential liability); and (iii) the payment of any and all taxes that may be levied or assessed against the right-of-way.

² The County requests the transfer of the previous NITU, but that negotiating period expired on January 12, 2015. Accordingly, the County's request will be treated as a request for a new NITU.

4. Interim trail use/rail banking is subject to possible future reconstruction and reactivation of the right-of-way for rail service and to the trail sponsor's continuing to meet its responsibilities for the right-of-way described in ordering paragraph 3 above.

5. If an interim trail use agreement is reached (and thus, interim trail use is established), the parties shall jointly notify the Board within 10 days that an agreement has been reached. 49 C.F.R. § 1152.29(d)(2) and (h).

6. If interim trail use is implemented, and subsequently the trail sponsor intends to terminate trail use on all or any portion of the right-of-way covered by the interim trail use agreement, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

7. If an agreement for interim trail use/rail banking is reached by September 8, 2015, for the right-of-way, interim trail use may be implemented. If no agreement is reached, CSXT may fully abandon the Line.

8. This decision and notice is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.